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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,603	09/28/2004	Jason A. Polzin	GEMS8081.218	5602

27061 7590 11/03/2006

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)
14135 NORTH CEDARBURG ROAD
MEQUON, WI 53097

EXAMINER

ARANA, LOUIS M

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

11

Office Action Summary	Application No.	Applicant(s)	
	10/711,603	POLZIN, JASON A.	
	Examiner	Art Unit	
	Louis M. Arana	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 14-38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to your petition under 37CFR 1.144 seeking supervisory review of the restriction requirement and response to the ex parte QUAYLE action of August 23, 2006.
2. Your petition has been treated as a request for reconsideration. The reasoning to support the above noted restriction requirement cannot be sustained because, as disclosed and claimed, the inventions are in fact related and not "unrelated " as stated. As a result, the previous restriction requirement is vacated. However, in light of the relationship existing between the inventions, the restriction requirement is modified as follows:

Election/Restrictions

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to a system for determining the phase of stationary and flowing spins in a MRI image, classified in class 324, subclass 306.
 - II. Claims 14-38, drawn to a method of phase correction in flow analysis MR imaging, classified in class 600, subclass 419.

The inventions are distinct, each from the other because of the following reasons:

4. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP §

806.05(e)). In this case, the apparatus can be used to practice a materially different process such as, when the phase of moving and stationary spins is determined with other than the calculation of a power spectrum or pulsatility factor.

5. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

6. A telephone call was made to Mr. Ziolkowski on 10/11/06 by Supervisor Diego Gutierrez to request an oral election to the above restriction requirement, but did not result in an election being made.

Since applicant has received an action on the merits for the originally presented claims 1-13 invention of Group I, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-38 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Allowable Subject Matter

7. Claims 1-13 have been allowed.

8. This application is in condition for allowance except for the following formal matters:

Cancellation of claims 14-38.

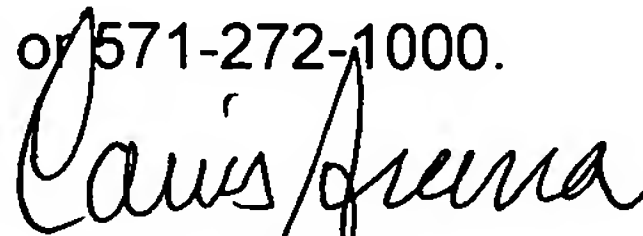
Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis M. Arana whose telephone number is (571) 272-2236. The examiner can normally be reached on M-Thurs. Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Louis M. Arana
Primary Examiner
Art Unit 2859

Ima
10/26/06


Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800